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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,495

08/17/2005

Peter Zahradka

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8552

7590

05/30/2008

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EXAMINER

PAGONAKIS, ANNA

ART UNIT

PAPER NUMBER

1614

MAIL DATE

DELIVERY MODE

05/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/507,495	Applicant(s) ZAHRADKA ET AL.	
	Examiner ANNA PAGONAKIS	Art Unit 1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 and 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 and 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Non-compliance notice</u> . |

DETAILED ACTION

The Office Action mailed on 5/14/2008 is hereby vacated and is replaced by the current Office Action.

Applicant's amendment filed 1/18/2008 have been received and entered into the present application.

Claims 3-4 remain pending. Claims 1-2 and 5-6 have been cancelled, and claims 3-4 have been amended.

Applicant's arguments, filed 1/18/2008 have been fully considered. Rejections and objections not reiterated from previous Office Actions are hereby withdrawn. The following rejections are either reiterated or newly applied. They constitute the complete set of rejections presently being applied to the instant application.

Sequence Rule Non-Compliance

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.1821(a)(1) and (a)(2). See, for example, page 1, line 22 of the specification. However, this application fails to comply with requirements of 37 CFR 1.821 through 1.825 because it lacks any submission of a computer readable form sequence listing, a paper copy for the specification, a statement under 37 CFR 1.821(f) and (g), and SEQ ID Nos are not required in Figures per se, however, the corresponding

Art Unit: 1614

SEQ ID Nos then are required in the Brief Description of the Drawings section in the specification. Applicants are also reminded that a CD-ROM sequence listing submission may replace the paper readable form sequence listing copies. The response time for this non-compliance is the same as for this Office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Ahlem et al. (USPGPub 2003/0060425).

Ahlem et al. teaches that the compound of formula I which can behave as a PPAR agonist or antagonist (paragraph [0682]). Furthermore, “the formula I compounds are useful for preventing, slowing the progression of or treating chronic renal failure in a subject” (paragraph [0709]).

Response to Applicant's Arguments

Applicant states that the reference does not teach that the compounds can behave as PPAR agonists or antagonists but rather teaches a method for determining if compound of formula I behave as PPAR agonists or antagonists and therefore it is worth a try to determine if the compound of formula 1 have agonist or antagonist activity, but offers no guarantee of

Art Unit: 1614

success. Further, Applicant argues that there is no evidence or mechanism describing how or why these compounds would be effective at treating chronic renal failure.

Applicant's remarks have been fully and carefully considered but fail to be persuasive.

First, with regard to Applicant's argument that these compounds are not known to have PPAR agonist or antagonist modulatory activity, Examiner guides Applicant to paragraphs [0675] and [0676], where it is stated that the formula 1 compounds can directly or indirectly form complexes with or modulate the synthesis of one or more biological compounds including PPAR alpha. Therefore, it is taught by the reference that the compounds of formula 1 do are in fact known as modulators of PPAR alpha.

Second, applicant argues that reference is not enabled for the treatment of chronic failure. Applicant have provided no evidence or reason why the formula 1 compound which have PPAR alpha modulatory activity would not work or is not. An allegation without factual support is unpersuasive. As noted in the rejection filed on 1/18/2008, it is explicitly stated in paragraph [0709] that compounds of formula 1 are useful for the treatment of chronic renal failure.

Conclusion

No claims are found to be allowable.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANNA PAGONAKIS whose telephone number is (571)270-3505. The examiner can normally be reached on Monday thru Thursday, 9am to 5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin H. Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/507,495
Art Unit: 1614

Page 6

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/Ardin Marschel/
Supervisory Patent Examiner, Art Unit 1614